

BEFORE THE  
TENNESSEE REGULATORY AUTHORITY

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March 11, 2005

T.R.A. DOCKET ROOM

*In re: Formal Complaint by King's Chapel  
Capacity, LLC Against Tennessee Wastewater  
Services Regarding Abuse of its CCN*

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Docket No. 05-00016

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**ANSWER OF TENNESSEE WASTEWATER SERVICES, INC.**

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Pursuant to TRA Rule 1220-1-2-.03, Tennessee Wastewater Services, Inc. ("TWS") files this Answer to the Complaint filed by King's Chapel Capacity, LLC ("King's Chapel").<sup>1</sup>

The Complaint filed with the TRA consists entirely of the following:

- (a) A three-page cover letter listing four "demands" by King's Chapel;
- (b) A copy of a complaint filed by King's Chapel on January 13, 2005, with the Tennessee Department of Environment and Conservation;
- (c) Copies of complaints filed November 9, 2004 and November 10, 2004, with the Tennessee Attorney General's Office, along with numerous, accompanying exhibits, some of which have previously been filed with the TRA in Docket No. 04-00335 (Petition of King's Chapel) and in the Chancery Court of Williamson County, Tennessee Wastewater, et al. v. J. Powell Development, et al., Case No. 31074.

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<sup>1</sup> The Complaint was filed on January 14, 2005, but was never served on TWS. By letter dated February 9, 2005, the TRA General Counsel notified TWS of the Complaint and requested an Answer to the Complaint on or before March 11, 2005.

After separating the complaints made to TDEC and the Attorney General, what remains of the Complaint to the TRA are the four demands listed in the cover letter. In the absence of a more definite statement by King's Chapel (see TRA Rule 1220-1-2-.03(4)), TWS presumes that these four allegations constitute the basis of King's Chapel's Complaint to the TRA. TWS responds as follows to those allegations and will separately file a motion asking the Authority either to dismiss the Complaint for failure to state a claim upon which relief can be granted or to hold this Complaint in abeyance pending the outcome of other, pending proceedings.

1. Denied. The allegations in paragraph 1 are false. As Mr. Powell, the Complainant, is well aware, Mr. Powell was not required to enter into an agreement with TWS or a TWS affiliate to construct a wastewater system to serve Mr. Powell's Williamson County development. Mr. Powell considered and rejected using the Sheaffer Company to construct a wastewater system for the development. Mr. Powell was also informed that he had the option of hiring his own contractor to build a wastewater system. He elected instead to enter into a contract with TWS and a TWS affiliate to build the wastewater system. Mr. Powell has refused to comply with the terms of that contract, forcing TWS to file suit in Williamson County Chancery Court to enforce the agreement.

2. Denied. The allegations in paragraph 2 are also false. As Mr. Powell knows now, and knew at the time of these events, the wastewater system built to serve Mr. Powell's development was designed by Robert Pickney, a licensed engineer, and constructed by Pickney Brothers, Inc., a licensed construction company and an affiliate of TWS. Furthermore, as Mr. Powell is aware, he has not been charged for inspection fees related to the construction work performed by Pickney Brothers. If Mr. Powell had elected

to build the system himself or to hire a third party, such as the Sheaffer Company, to build the system, TWS would have required that the system be built to the specifications of TWS. TWS would have monitored the construction and charged an inspection fee, which is calculated as a percentage of the cost of the project .

In this case, Pickney Brothers agreed to construct the treatment system (sand filter and drip field system, pump station and force main lines). No inspection fee has been added to the cost of that construction.


The only inspection work to be done (and which remains to be done) involves the inspection of the collection system which will be built on each lot by the developer and homeowners. As described in the contract, the developer is required to pay "an additional \$3366 per lot" to TWS "when [the] lot is sold." That price includes the cost of inspecting the construction on each lot.

3. Denied. These allegations, as Mr. Powell is aware, are false. After the parties initially agreed on the price of the system and construction was about to begin, Mr. Powell himself asked TWS if TWS could reduce the price of building the new wastewater system. In response, TWS offered to reduce the price if Mr. Powell's development company would pay the "net bonding cost" (the actual cost of posting and maintaining a bond less the amounts contributed by home owners in the development) of the bond required by Williamson County. Mr. Powell agreed and, consequently, assumed responsibility for the Williamson County bond. Once lots are sold, and money is collected from homeowners to cover, in part, the bonding costs, that money will be paid to Mr. Powell's development company. There will be no "double" recovery of costs by TWS, Mr. Powell, or anyone else.

4. Denied. Paragraph 4 alleges a "pattern of abuse" by TWS, which has resulted in "higher lot prices" charged by developers to home owners. TWS denies any such "abuse." With the exception of Mr. Powell, TWS has maintained good working relationships with developers across the state and with regulatory officials at both the TRA and TDEC. As TWS has previously told the TRA, it appears that Mr. Powell is the one who is attempting to abuse the regulatory system by the continual filing of meritless complaints and accusations in an effort to escape his contractual obligations to TWS.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

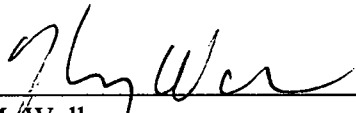
By:   
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(615) 252-2363

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document has been served upon the following persons by hand delivery or by United States Mail, with proper postage thereon.

King's Chapel Subdivision  
John Powell  
King's Chapel Capacity, LLC  
1413 Plymouth Dr.  
Brentwood, TN 37027

This 11<sup>th</sup> day of March, 2005.

  
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Henry M. Walker